

# CHARTER SERVICE



**U.S. Department of Transportation  
Federal Transit Administration**

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# Purpose of Rule

- ❖ Prevent public intrusion into private markets
- ❖ Allow for the private sector to utilize public transit resources to meet market needs

# Master Agreement

- ❖ Applicants for FTA assistance must formally agree that they will not provide charter service using equipment or facilities funded under the Act, unless there are no private charter operators willing and able to provide the charter service or another exception applies.
- ❖ 49 CFR 604.7

# Definition of Charter Service

- ❖ Charter service means transportation using buses or vans, or facilities funded under the Acts of a group of persons who pursuant to a common purpose, under a single contract, at a fixed charge (in accordance with the carrier's tariff) for the vehicle or service, have acquired the exclusive use of the vehicle or service to travel together under an itinerary either specified in advance or modified after having left the place of origin. This definition includes the incidental use of FTA funded equipment for the exclusive transportation of school students, personnel, and equipment.
- ❖ 49 CFR 603.5(e)

# Prohibition from Charter Service

❖ To the extent there is at least one willing and able private operator, the recipient is prohibited from providing charter service with FTA funded equipment or facilities unless one or more of the exceptions applies.

- 49 CFR 604.9(a)

# Determination of Willing and Able

- ❖ At least 60 days before the starting date of the charter service the recipient must
  - place a notice in a newspaper of general circulation within the proposed geographic charter service area,
  - send a copy to all private charter service operators in the proposed geographic service area, and
  - send a copy of the notice to the United Motorcoach Association and the American Bus Association
- ❖ Allow at least 30 days from the date of the notice for a private charter operator to respond
  - 49 CFR 604.(b)(3)

# Exceptions to Charter Service Prohibition

- ❖ Can lease equipment or service to a private provider if they do not have enough vehicles or accessible vehicles
  - 49 CFR 604.9(b)(2)
- ❖ For special events to the extent that private operators are not capable of providing the service
  - 49 CFR 604.9(b)(4)

# Applying for Special Events Exception

- ❖ **Submit a request for a special events exception to the Regional Administrator at least 90 days prior to the day or days on which you desire to provide charter service**
  - describe the event,
  - explain how it is special, and
  - explain the amount of charter service which private charter operators are not capable of providing
  - 49 CFR 604.9)(d)
- ❖ **The event must be extraordinary and expected to draw large crowds, like a visit by the Pope or hosting the Pan American Games.**
  - “Charter Service Questions and Answers,” Question and Answer # 21, 52 FR42248, November 3, 1987.
- ❖ **Decisions**
  - Washington Metropolitan Area Transit Authority, DC, Letter to Mr. White, December 8, 1996
  - Indianapolis Public Transportation Authority, IN, Letter to Mr. Bland, December 7, 2000



# Exceptions to Charter Service Prohibition, cont.

- ❖ For government or certain non-profit entities if
  - the trip involves significant number of persons with disabilities
  - the organization is a qualified non-profit social service entity, or
  - the entity receives public welfare assistance funds whose implementation may require transportation services
  - 49 CFR 604.9(b)(5)
- ❖ If there is a formal agreement between the recipient and all private charter operators determined to be willing and able
  - 49 CFR 604.9(b)(7)

# Additional Exceptions for Recipients of Federal Funds in Non-Urbanized Areas

- ❖ If the service that the private operator can provide would create a hardship on the customer because it imposes minimum durations or is located too far from the origin of the charter service
  - 49 CFR 604.9(3)
- ❖ For a government entity or certain non-profit organizations if more than 50% of the passengers on the trip will be elderly
  - 49 CFR 604.9(6)

# Must be Incidental

- ❖ Any charter service that a recipient provides under any of the exceptions must be incidental.
  - 49 CFR 604.9(e)

# Can a Transit Agency Do This?

## Example 1

- ❖ A transit authority is asked to provide special service to another city department, such as the city council, to tour a transit facility or project, or make some other trip in connection with the department's operations.

# Example 1 Answer

- No. These trips do not come within one of the recognized exceptions.

## Example 2

- ❖ A public transit provider is asked to use its buses for school field trips or to transport students to extracurricular school activities.

## Example 2 Answer

- No. This is prohibited charter service because the definition of charter service includes the use of FTA funded equipment for the exclusive transportation of school students, personnel, and equipment.

## Example 3

- ❖ A transit authority is the only operator in the area that has a trolley vehicle, so it is asked to charter this vehicle.



# Example 3 Answer

- It depends.
- Lacking a trolley vehicle does not disqualify a private operator from being considered as “willing and able” if it can provide a bus or van.
- “Charter Service Questions and Answers,” Question # 25, 52 FR 42248, November 3, 1987
- Decision
  - City of Wichita Transit Services, KS, Letter to Mr. Banasiak, August 11, 2005

# Complaint Process

## 49 CFR 604.15

- ❖ FTA encourages public transit authorities and private charter operators to work together to resolves their disputes.
- ❖ Provide complaint in writing to the FTA Regional Administrator concerning the service.
- ❖ Include as many specifics as possible, such as who provided the service, date and time of the service, origin, destination, and equipment used.
- ❖ Send a copy of the complaint to the public transit provider in question.

# Additional Information

- ❖ 49 CFR Part 604, can be accessed through the internet.  
<http://www.fta.dot.gov/library/legal/charterservice/index.html>
- ❖ “Charter Service Questions & Answers,” 52 Federal Register 42248, November 3, 1987, accessible through the internet. <http://www.fta.dot.gov/library/legal/fr11387.html>
- ❖ “Transit Charter Bus Service Decisions and Documents,” can be accessed through the internet.  
[http://www.fta.dot.gov/legal/16938\\_16942\\_ENG\\_HTML.htm](http://www.fta.dot.gov/legal/16938_16942_ENG_HTML.htm)

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# SAFETEA-LU

- ❖ On August 10, 2005, President Bush signed the Safe, Accountable, Flexible, and Efficient Transportation Equity Act - A Legacy for Users (SAFETEA-LU), providing \$45.3 billion in guaranteed funding for federal transit programs through FY 2009
- ❖ 49 U.S.C. 5323 was amended to allow the Secretary to bar a recipient or an operator from receiving Federal transit assistance ***in an amount the Secretary considers appropriate*** if the Secretary finds a pattern of violations of the [charter] agreement.

# Negotiated Rulemaking

- ❖ The conferees directed FTA to initiate a negotiated rulemaking seeking public comment on the charter service regulations implementing section 5323(d), and to consider the issues listed below:
  - 1. Are there potential limited conditions under which public transit agencies can provide community-based charter services directly to local governments and private non-profit agencies that would not otherwise be served in a cost-effective manner by private operators?
  - 2. How can the administration and enforcement of charter bus provisions be better communicated to the public, including use of internet technology?
  - 3. How can the enforcement of violations of the charter bus regulations be improved?
  - 4. How can the charter complaint and administrative appeals process be improved?
  - “Conference Report on H.R. 3, “ 151 Cong. Rec. H7480, July 28, 2005

# Other Issues for Consideration

- ❖ New willing and able process would utilize electronic notification and response within 72 hours.
- ❖ New exception for emergency services and training for emergencies.

# Issues for Consideration, cont.

- ❖ New exception for transportation of local government and federal employees, elected officials and members of the transit industry to examine local transit operations, facilities, and public works.
- ❖ Revise Appendix A list of Federal assistance programs administered under the U.S. Department of Health and Human Services.



# Questions and Comments

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